

1 ROB BONTA, State Bar No. 202668  
2 Attorney General of California  
3 GARY E. TAVETIAN, State Bar No. 117135  
4 TRACY L. WINSOR, State Bar No. 186164  
5 Supervising Deputy Attorneys General  
6 JANELLE M. SMITH, State Bar No. 231801  
7 JOHN S. SASAKI, State Bar No. 202161  
8 DAVID M. MEEKER, State Bar No. 273814  
9 EMILY M. HAJARIZADEH, State Bar No. 325246  
10 Deputy Attorneys General  
11 1300 I Street, Suite 125  
12 P.O. Box 944255  
13 Sacramento, CA 94244-2550  
14 Telephone: (916) 210-7795  
15 Fax: (916) 327-2319  
16 E-mail: [Emily.Hajarizadeh@doj.ca.gov](mailto:Emily.Hajarizadeh@doj.ca.gov)  
17 *Attorneys for California  
Air Resources Board and  
Steven S. Cliff, Executive Officer*

18 IN THE UNITED STATES DISTRICT COURT  
19 FOR THE EASTERN DISTRICT OF CALIFORNIA

20 **THE TWO HUNDRED FOR  
HOME OWNERSHIP, a California  
Nonprofit Public Benefit Corporation,  
ROBERT APODACA, an individual, and  
JOSE ANTONIO RAMIREZ, an individual,**

21 Petitioners and Plaintiffs,

22 v.

23 **CALIFORNIA AIR RESOURCES BOARD,  
STEVEN S. CLIFF, in his official capacity,  
and DOES 1-25,**

24 Respondents and  
25 Defendants.

26 1:22-cv-01474-ADA-BAM

27 **NOTICE OF MOTION AND  
RESPONDENTS' MOTION TO DISMISS  
PETITIONERS' VERIFIED  
COMPLAINT AND PETITION**

28 Date: April 24, 2023  
Time: 1:30 p.m.  
Dept: Courtroom 1  
Judge: Hon. Ana de Alba  
Trial Date: Not Set  
Action Filed: November 14, 2022

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on April 24, 2023, at 1:30 p.m., or as soon thereafter as the  
3 matter may be heard, Respondents the California Air Resources Board (CARB) and Steven S.  
4 Cliff, Ph.D., in his official capacity as CARB's Executive Officer (collectively, Respondents), by  
5 and through their undersigned counsel, will, and hereby do, move this Court for an order  
6 dismissing the Verified Complaint and Petition (Petition) of Petitioners The Two Hundred for  
7 Homeownership, Robert J. Apodaca, and Antonio Ramirez (collectively, Petitioners), under:

8 1. Federal Rule of Civil Procedure 12(b)(1) for lack of Article III standing as to all  
9 claims against Respondents;

10 2. Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which  
11 relief can be granted as to Petitioners' First, Second, Third, and Fourth Claims against  
12 Respondents, as well as the Fifth and Sixth Claims under 28 U.S.C § 1337(c)(1) & (3); and

13 3. Federal Rule of Civil Procedure 12(b)(1) and (6) for lack of subject matter  
14 jurisdiction and Eleventh Amendment immunity as to all claims against CARB, and as to the  
15 Second, Fourth, Fifth, and Sixth Claims against CARB's Executive Officer.

16 This motion will be made before the Honorable Ana de Alba, United States District Judge,  
17 Robert E. Coyle United States Courthouse, 2500 Tulare Street, Fresno, CA 93721, Courtroom 1,  
18 8th Floor.

19 This motion is made upon this Notice, the accompanying Memorandum of Points and  
20 Authorities, Request for Judicial Notice and Declaration of Emily M. Hajarizadeh, and all  
21 pleadings, records, and other documents on file with the Court in this action.

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This motion is made following the conference of counsel under the Standing Order of this Court, which took place on February 27, 2023, as detailed by the accompanying Declaration of Emily M. Hajarizadeh.

Dated: March 7, 2023

Respectfully submitted,

**ROB BONTA**  
Attorney General of California

/s/ Emily M. Hajarizadeh  
EMILY M. HAJARIZADEH  
Deputy Attorney General  
*Attorneys for Respondents*  
*California Air Resources Board*  
*and Steven S. Cliff, Executive Officer*

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